



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

led,¹ it is clear on authority that an innocent purchaser from such person is protected.² It may be argued, however, that a purchaser with notice is entitled to no such protection, inasmuch as he is not deceived. If this view were adopted, the result would be that one who acquired a right by estoppel would be unable to realize upon it in case the facts became known to the world. Thus if he should obtain by estoppel land or a chattel, he would be forced to retain it for his own use forever; and upon his death, since no one taking with notice could set up the estoppel, it would revert to the former owner. Or if the property so acquired were a note not yet due, he could not negotiate it, and if it did not fall due within his lifetime, there could be no recovery. If, however, it is objected that these rights would pass to the heir and the executor respectively on the theory that they continue the legal existence of the deceased, the estoppel would then violate the policy of the law against restraints on alienation by creating a right descendible but not transferable.

The suggestion approved in a recent case decided by a federal circuit court in Iowa, that the transferee with notice of negotiable paper, which is valid only by estoppel, be allowed to recover merely the amount he paid for it, does not obviate the difficulties, as it would afford little practical relief to the original estoppel-asserter. *Gamble v. Rural Independent School District*, 132 Fed. Rep. 514. His interests can be adequately protected only by holding that a subsequent purchaser who takes with knowledge of the facts, is fully protected.³ This view, likewise, would recognize estoppel in its true light as creating a right equitable in its nature and freely transferable like other property interests. As it would be destructible like other equitable rights, a *bona fide* purchaser from the one estopped would take free from the equity.⁴ This would not be true, of course, of estoppel by deed where, as in many states, that is a distinct doctrine giving rise to legal rights and confined in its application strictly to transfers of land.⁵ But regarding estoppel *in pais* in this light, the question of knowledge or the amount of consideration paid by the assignees of this equitable right would become irrelevant.

LIABILITY FOR INTERFERENCE WITH UNLAWFUL OBSTRUCTION IN HIGHWAY.—It is well established that a person who is inconvenienced by an obstruction in a public highway may remove it.¹ In so doing, however, he must not commit a breach of the peace,² and must do no more damage to the obstacle than is reasonably necessary.³ To those using the highway there is a further duty not to create a more serious obstruction. For example, a street railway company, which has the right to remove snow from its tracks, must not pile it up in such a way as to interfere unnecessarily with the use of the street.⁴

In view of these decisions, what should be the duty imposed upon one

¹ See *Shillito Co. v. McClung*, 51 Fed. Rep. 868.

² *Kinnear v. Mackey*, 85 Ill. 96.

³ *Anderson v. McPike*, 86 Mo. 293.

⁴ *Rutz v. Kehn*, 143 Ill. 558.

⁵ *Knight v. Thayer*, 125 Mass. 25.

¹ *Inhabitants of Arundel v. M'Culloch*, 10 Mass. 70.

² *State v. White*, 18 R. I. 473.

³ *Mark v. Hudson, etc., Co.*, 103 N. Y. 28.

⁴ *Bowen v. Detroit City Ry. Co.*, 54 Mich. 496.

who changes the position of an obstruction without removing it from the highway? To hold that he must under all circumstances remove it to a place where it would no longer be dangerous, might often result in casting upon an innocent party responsibility for a danger created solely by another. It is conceived, however, that in no case should he be allowed to increase an existing danger or to create a new one. The fact that he has been inconvenienced can furnish no justification for his deliberately endangering others.⁵ Thus he would be liable if he should move the obstruction to a place where the travel is heavier, or where a different class of persons would be affected. Likewise, if he should move it a considerable distance, although without increasing the danger or imperiling a different class of persons, he would be liable, for the situation would be so materially altered that he could fairly be said to have created a new danger. Moreover, it is believed that he would be responsible if he should replace the obstruction in its original position; for, having once removed the danger from that place, he would be creating it there anew. In other words, while exercising his lawful right of removal, he should be considered under a duty to do no act which an ordinarily prudent man under the same or similar circumstances would foresee as likely to increase an existing danger or to create a new one. Whether in any case he has violated this duty would seem to be a question of fact. The Supreme Court of Rhode Island, however, has recently ruled as matter of law that a street railway company which removed an obstruction from its track was not liable to a person who, while in the exercise of due care, subsequently came in contact with it. *Howard v. Union Ry. Co.*, 57 Atl. Rep. 867 (R. I.).

JURISDICTION OVER CRIMES COMMITTED ON A VESSEL OF ONE COUNTRY FROM THAT OF ANOTHER. — Discussing the recent killing of English fishermen from a Russian vessel in Doggerbank, an editorial in the *Justice of the Peace* concludes that English courts, following *Reg. v. Keyn*,¹ would not take jurisdiction. *The North Sea Outrage*, 68 Just. P. 529 (Nov. 5, 1904). Since the *locus* of a crime determines its jurisdiction, the primary question is really this: was the homicide committed on the British sloop or on the Russian vessel?

Homicide is the unlawful application of force to the body resulting in death, and the doctrine is general that the crime is committed where the force operates. This constituted the breach of the king's peace, which first gave the king's courts jurisdiction.² In the large class of cases, in this country, which involve shooting from one state into another, the overwhelming authority is that the latter controls the venue.³ This precise question arose in *Reg. v. Coombes*,⁴ where the master of the king's sloop was fired on from the shore, and it was held that, since the offense took place where the bullet struck, the defendant was properly tried by the Admiralty. And where a shot from an American vessel killed a native on board a vessel lying in the Society Islands, our court, deeming the act to have been com-

⁵ Cf. *Scott v. Shepherd*, 2 Black, W. 892; see also Clerk & Lindsell Torts, 2d ed. 130.

¹ L. R. 2 Ex. Div. 63, 13 Cox C. C. 403.

² 2 Poll. & Mait., Hist. Eng. Law, 2d ed., 463.

³ *State v. Hall*, 114 N. C. 909.

⁴ 1 Leach 432.